

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PATRICIA LUCIO,

Plaintiff,

v.

STEMILT GROWERS, LLC, and STEMILT AG  
SERVICES, LLC,

Defendants.

No.

PLAINTIFF'S COMPLAINT  
FOR DAMAGES

JURY TRIAL REQUESTED

## I. NATURE OF THE ACTION

1. This is an action for declaratory judgment, equitable relief, and monetary damages, instituted to secure the protection of and to redress the deprivation of rights secured through 42 U.S.C. § 1981, *et seq.* (“Section 1981”); the Age Discrimination in Employment Act, 29 U.S.C. § 623, *et seq.*, (“ADEA”); Washington’s prohibition against Unfair Practices in Employment Because of Age of Employee or Applicant RCW 49.44.090 *et seq.*; the Washington Law Against Discrimination, RCW 49.60, *et seq.* (“WLAD”); and the Family Medical Leave Act, 29 U.S.C. § 2611 *et seq.* (“FMLA”); and the Equal Pay Act of 1963, as amended, 29 U.S.C. § 206, *et seq.* (“EPA”).

2. Plaintiff Patricia Lucio alleges that Defendants Stemilt Growers, LLC and Stemilt Ag Services, LLC (collectively “Defendants”) discriminated against her because of her race (Hispanic), national origin (Mexican), gender (female), age (fifty-six or about fifty-six years old), and disability, including discriminatorily and retaliatorily demoting her and involuntarily discharging her while she was on FMLA, in retaliation for engaging in protected activity in violation of the laws stated above. Defendants further engaged in a practice of paying Plaintiff and female employees less than similarly situated male employees. Plaintiff seeks monetary and injunctive relief, including pecuniary and non-pecuniary damages, compensatory damages, and punitive damages to the fullest extent allowed by law.

3. Plaintiff filed a charge with the Equal Employment Opportunity Commission (“EEOC”) on January 29, 2015 alleging Defendants violated Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000(e), *et seq.* (“Title VII”). Plaintiff reserves the right to amend her complaint to include her Title VII claims.

## II. JURISDICTION, VENUE AND PARTIES

4. Jurisdiction is proper pursuant to 28 U.S.C. § 1331 since Plaintiff alleges claims that comprise a federal question.

1           5.       This Court has jurisdiction over Plaintiff's state claims pursuant to 28 U.S.C. §  
2 1367.

3           6.       Venue of this Court is invoked under 28 U.S.C. § 1391.

4           7.       Plaintiff Patricia Lucio is a resident of Washington State.

5           8.       Defendants Stemilt Growers, LLC and Stemilt Ag Services, LLC are  
6 Washington limited liability companies and have the requisite number of employees under the  
7 aforementioned statutes.

8           9.       At all relevant times, Defendants were continuously doing business in the  
9 Western District of Washington and transacting business in the Western District of  
10 Washington.

11          10.      At all relevant times, Defendants were employers engaged in an industry  
12 affecting commerce, and had the requisite number of employees under the aforementioned  
13 statutes.

14          11.      At all relevant times, Defendants employed Plaintiff.

15          12.      All jurisdictional prerequisites have been met.

16                               **III.     STATEMENT OF CLAIMS**

17          13.      The preceding paragraphs 1 through 12 are re-alleged and hereby incorporated  
18 by reference.

19          14.      Defendants engaged in unlawful employment practices against Plaintiff, while  
20 she was employed by Defendants, in violation of Section 1981, 42 U.S.C. §1981 *et seq.*; the  
21 ADEA, 29 U.S.C. § 623 *et seq.*; RCW 49.44.090 *et seq.*; Title VII, 42 U.S.C. § 2000(e) *et seq.*;  
22 WLAD, RCW 49.60 *et seq.*; FMLA, 29 U.S.C. § 2611 *et seq.*; and EPA, 29 U.S.C. § 206 *et*  
23 *seq.*

24          15.      Defendants discriminated, retaliated, and took adverse actions against Plaintiff  
25 for opposing discrimination in the workplace. Defendants' unlawful conduct was motivated by  
26

1 Plaintiff's race, national origin, age, gender, disability, and opposition to Defendants'  
2 discriminatory conduct.

3 16. Defendants grow and sell fruit. Defendants employ a workforce largely  
4 composed of Hispanic employees, including migrant workers.

5 17. Plaintiff Patricia Lucio is female, Hispanic and of Mexican national origin. She  
6 speaks English and Spanish fluently.

7 18. Prior to being hired by Defendants, Plaintiff had training and experience as a  
8 Human Resource professional.

9 19. She spent more than eleven years as an employee for Defendants, and  
10 performed well throughout her employment, receiving promotions. She was ultimately  
11 promoted to the position of Director of Human Resources, serving as the only Hispanic  
12 director and the only female director for Defendants.

13 20. In 2011, Plaintiff's reporting relationship changed and she reported directly to  
14 the President.

15 21. After the reporting relationship changed, Plaintiff raised many concerns to  
16 Defendants' President, including requesting him to reform Defendants' discriminatory  
17 practices to protect the rights of Hispanic, female and older employees.

18 22. She also routinely requested that Defendants' President address the inconsistent  
19 and discriminatory application of the Defendants policies.

20 23. On or about March 1, 2012, Defendants discriminatorily and retaliatorily  
21 demoted Plaintiff from the position of Director of Human Resources.

22 24. Defendants' demotion of Plaintiff was unlawful discrimination and retaliation.

23 25. Defendants replaced Plaintiff with a younger, white male as the Director of  
24 Human Resources.

25 26. Her replacement had never held a position in Human Resources before he  
26 replaced Plaintiff as Human Resources Director.

1           27. Her replacement did not have the background and experience in human  
2 resources that Plaintiff did.

3           28. Plaintiff complained about the discrimination and retaliation she suffered after  
4 the demotion, and because of the demotion.

5           29. Throughout her employment, Plaintiff engaged in protected activity including  
6 complaining and opposing discrimination against her and other Hispanic, female and older  
7 employees to management, including the highest officers in the company.

8           30. Defendants had a pattern and practice of favoring younger white males and  
9 discriminating against employees who were not younger white males, including Hispanic  
10 employees, Mexican employees, older employees, and women.

11           31. Defendants discriminated against Plaintiff and other Hispanic employees on the  
12 basis of race and national origin in violation of Section 1981, 42 U.S.C. §1981 *et seq.*; Title  
13 VII, 42 U.S.C. § 2000(e) *et seq.*; and WLAD, RCW 49.60 *et seq.*

14           32. Defendants discriminated against Plaintiff and other female employees on the  
15 basis of gender, in violation of Title VII, 42 U.S.C. § 2000(e) *et seq.*; WLAD, RCW 49.60 *et*  
16 *seq.*; and Equal Pay Act (EPA), 29 U.S.C. § 206 *et seq.*

17           33. Defendants discriminated against Plaintiff and other older employees on the  
18 basis of age in violation of the ADEA, 29 U.S.C. § 623 *et seq.* and the WLAD, RCW 49.60 *et*  
19 *seq.*

20           34. Defendants discriminated against Plaintiff on the basis of her disability in  
21 violation of the WLAD, RCW 49.60 *et seq.*, and interfered with her rights under FMLA, 29  
22 U.S.C. § 2611 *et seq.*

23           35. Defendants' discriminatory actions include but are not limited to the following:

- 24           (i) Defendants paid Plaintiff and other Hispanic and/or female employees  
25 less than similarly-situated white males, including lower wages and  
26 benefits;

- 1 (ii) Defendants discriminatorily denied Plaintiff and other Hispanic and/or  
2 female employees opportunities and promotions;
- 3 (iii) Defendants prohibited Plaintiff and other Hispanic employees from  
4 speaking Spanish, even in private, personal conversations;
- 5 (iv) Defendants subjected Plaintiff and other Hispanic and/or female  
6 employees to different standards and discipline than white male  
7 employees;
- 8 (v) Defendants discriminated and took adverse actions against Plaintiff,  
9 including but not limited to:
- 10 1. demoting her from a director level position,  
11 2. failing to provide any advance notice of the demotion,  
12 3. replacing her with a less qualified younger white male  
13 employee,  
14 4. compensating Plaintiff's replacement at a higher level  
15 than Plaintiff,  
16 5. cutting Plaintiff's compensation,  
17 6. and involuntarily terminating Plaintiff's employment;
- 18 (vi) Defendants had no Hispanic and/or female directors after demoting  
19 Plaintiff from a director level position, and all directors that remained  
20 were Caucasian and male.

21 36. Plaintiff opposed discrimination and otherwise engaged in protected activity  
22 under the aforementioned statutes, including but not limited to the following:

- 23 (i) Plaintiff raised complaints to upper management, including the  
24 President of the company, about race and gender discrimination  
25 including but not limited to her discriminatory demotion;  
26

- 1 (ii) Plaintiff encouraged Hispanic and/or female employees to raise  
2 discrimination complaints;
- 3 (iii) Plaintiff advocated for Hispanic, female, and/or older employees  
4 to be treated equally within the workplace, and that Defendant  
5 comply with Washington and U.S. law prohibiting race and  
6 national origin discrimination in the workplace;
- 7 (iv) Plaintiff complained to upper management about discriminatory  
8 hiring practices favoring Caucasians, males and younger  
9 individuals;
- 10 (v) Plaintiff opposed and complained to upper management about  
11 Defendants' instruction to not allow Hispanic employees to  
12 speak Spanish, even in private conversations;
- 13 (vi) Plaintiff raised concerns about a lack of compliance,  
14 discriminatory conduct toward Hispanic employees that  
15 escalated after the younger white male employee took over her  
16 duties;
- 17 (vii) Plaintiff opposed and complained to upper management about  
18 unequal pay, including Hispanic and/or female employees being  
19 compensated less than similarly situated white male employees;
- 20 (viii) Plaintiff wrote directly to the President of Defendant Stemilt  
21 Growers, LLC on or about November 12, 2014, regarding her  
22 concerns about age discrimination, discrimination against  
23 Hispanic employees and female employees, giving specific  
24 examples of discriminatory treatment of Hispanic and female  
25 employees including discriminatory demotions, promotions, and  
26

1 hiring practices that violated Washington and Federal law, and  
2 requested action be taken to remedy it;

3 37. Defendants failed to take any prompt or effective action to remediate the  
4 discrimination.

5 38. Rather than address Plaintiff's complaints, Defendants' President involuntarily  
6 discharged Plaintiff in retaliation for engaging in protected activity under the aforementioned  
7 statutes and while she was disabled and on medical leave protected by FMLA.

8 (a) On December 3, 2014, Defendants' President wrote Plaintiff knowing  
9 that she was out on protected medical and disability leave under the FMLA for  
10 migraines and other stress-induced medical illnesses. In response to her  
11 November 12, 2014 letter asking him to address her concerns of discrimination  
12 and retaliation at Stemilt, Defendants' President asked Plaintiff to end her  
13 employment and wrote:

14 **"[T]here is no way that we can undo the past and individual feelings of you,**  
15 **me and everyone involved. Given the distress this seems to cause you, are**  
16 **you sure it wouldn't be healthier for you to leave Stemilt?"**

17 39. Plaintiff was already on FMLA and disability leave due to stress caused by the  
18 discrimination in her work environment. Upon receiving this response to her discrimination  
19 complaints, including her complaint about Defendants' decision to discriminatorily and  
20 retaliatorily demote her, Plaintiff could not return to work; Defendants forced her resignation.

21 40. Defendants discriminatorily and retaliatorily discharged Plaintiff, an eleven-  
22 year employee with a strong performance record, in violation of the above-referenced statutes.

23 41. The effect of the practices complained of in the above paragraphs has been to  
24 deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status  
25 as an employee because of her race, gender, national origin, age, disability, FMLA leave, and  
26 opposition to Defendants' unlawful activities.



1           42. Defendants failed to act to eliminate the discrimination and retaliation in  
2 response to Plaintiff's complaints and instead took adverse actions against Plaintiff due to her  
3 opposition activity and while she was on medical leave protected by FMLA.

4           43. The unlawful employment practices complained of in the above paragraphs  
5 were intentional.

6           44. The unlawful employment practices complained of in the above paragraphs  
7 were done with malice or with reckless indifference to Plaintiff's rights as protected by federal  
8 and state laws.

9                                   **IV. RESERVATION OF RIGHTS**

10          45. Plaintiff reserves the right to add, revise, or withdraw any claims, or add  
11 additional parties during the course of the litigation as information is obtained through  
12 litigation.

13                                   **V. PRAYER FOR RELIEF**

14          Wherefore, Plaintiff respectfully requests that this court:

15          A. Grant a permanent injunction enjoining Defendants, their officers, successors,  
16 agents, assigns, and all persons in active concert or participation with them, from engaging in  
17 any other unlawful employment practices.

18          B. Order Defendants to institute and carry out policies, practices, and programs  
19 which provide equal employment opportunities for all employees, and which eradicate the  
20 effects of its past and present unlawful employment practices.

21          C. Order Defendants to make Plaintiff whole by providing appropriate back pay  
22 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief  
23 necessary to eradicate the effects of its unlawful employment practices.

24          D. Order Defendants to make Plaintiff whole by providing compensation for past  
25 and future pecuniary losses resulting from the unlawful employment practices described in the  
26 above paragraphs, including out-of-pocket expenses, in an amount to be determined at trial.

1           E.       Order Defendants to make Plaintiff whole by providing compensation for past  
2 and future non-pecuniary losses resulting from the acts complained of in the above paragraphs,  
3 including without limitation emotional harm, physical pain, suffering, humiliation, impact to  
4 Plaintiff's career and reputation, and loss of enjoyment of life, in an amount to be determined  
5 at trial.

6           F.       Order Defendants to pay Plaintiff punitive damages for the conduct described in  
7 the above paragraphs, in amounts to be determined at trial, to the fullest extent allowed by law.

8           G.       Order Defendants to pay Plaintiff for any and all tax consequences associated  
9 with the damages and cost award, including but not limited to attorney's fees.

10          H.       Award Plaintiff the costs of this action, including attorney's fees, expert fees,  
11 and all other costs to the fullest extent allowed by law.

12          I.       Award Plaintiff other damages including prejudgment interest and post-  
13 judgment interest.

14          J.       Grant any additional or further relief as provided by law, which this Court finds  
15 appropriate, equitable, or just.

1 DATED this 24th day of February, 2015.

2 THE BLANKENSHIP LAW FIRM, P.S.

3  
4 By: /s/ Scott C.G. Blankenship

5 /s/ Robin J. Shishido

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